

The Estate of Cindy Lou Hill, by and through its personal representative, Joseph A. Grube; and Cynthia Metsker, individually vs. Naphcare, Inc., et al.

Case No. 2:20-cv-00410-RMP

Declaration of Edwin S. Budge

Exhibit S

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

THE ESTATE OF CINDY LOU HILL, by)
and through its personal)
representative, Joseph A. Grube;)
and CINDY METSKER, individually,)
Plaintiff,) No. 2:20-cv-00410-RMP
vs.)
NAPHCARE, INC., an Alabama)
corporation; HANNAH GUBITZ,)
individually; and SPOKANE COUNTY,)
a political subdivision of the)
State of Washington,)
Defendants.)

VIDEOTAPED DEPOSITION OF MICHAEL SPARBER

August 16, 2021

Via Videoconference

REPORTED BY: Valerie L. Torgerson, CCR, RPR
License No. 2036

MS. EHLERT: Erin Ehlert for NaphCare.

MR. BALSON: Hank Balson for the
plaintiffs.

THE VIDEOGRAPHER: Thank you.

Will the court reporter please -- I'm sorry. Did I
miss someone?

Will the court reporter please swear in the witness.

MICHAEL SPARBER, having been first duly sworn
by the Certified Court Reporter,
testified as follows:

EXAMINATION

BY MR. BUDGE:

Q Good morning. Could you please state and spell your name
for the record?

A Good morning. My name is Michael Sparber, S-p-a-r-b-e-r,
and I am a detention services director for both downtown
and Geiger.

Q All right. So you're the director of the Spokane County
Detention Services Department; is that correct?

A That's correct.

Q Were you the director of the Spokane County Detention
Services Department as of August 25th, 2018, which is the
date of Cindy Lou Hill's death?

1 Q (By Mr. Budge) Do you understand my question, and do you
2 understand the objection?

3 A I do.

4 Q Okay. Can you tell me whether or not it's true from your
5 perspective that Spokane County Detention Services
6 anticipated the possibility of litigation arising from
7 the death of Cindy Lou Hill shortly after she died?

8 MR. JUSTICE: Same objection and
9 instruction.

10 Otherwise you can answer.

11 A I'm sure -- well, my answer would be that any death or
12 anything that occurs in our jail is -- would be subject
13 to litigation.

14 Q (By Mr. Budge) And so does Spokane County Detention
15 Services basically anticipate as a practical matter with
16 all inmate deaths that there might well be litigation
17 arising from any such deaths?

18 A Yeah. Sure.

19 Q As of the date of Cindy Lou Hill's death on August 25th,
20 2018, Spokane County Detention Services had that basic
21 understanding, correct, that her death, as with any other
22 death in the jail, might well result in civil litigation;
23 correct?

24 A Correct. That's why we talk to our attorneys and risk
25 management on any of those occasions.

1 Q Now, throughout your tenure as Spokane County Detention
2 Services director and before that as the assistant
3 director, has it always been your basic understanding
4 that any inmate death at the jail is reasonably likely to
5 result in civil litigation?

6 A Yes.

7 Q As of the date of Cindy Lou Hill's death on August 25th,
8 2018, did Spokane County Detention Services fully
9 understand that given the possibility of litigation it
10 was obligated to preserve all written and electronically
11 stored information pertaining to Cindy Lou Hill in its
12 possession, custody, or control?

13 A Yes.

14 Q As of the date of Cindy Lou Hill's death on August 25th,
15 2018, did Spokane County Detention Services fully
16 understand that preservation of written and
17 electronically stored information pertaining to Cindy Lou
18 Hill was necessary not only for purposes of possible
19 litigation but also to respond to any law enforcement
20 requests for information?

21 A Yes.

22 Q Now, Cindy Lou Hill died on the evening of August 25th,
23 2018. What was the earliest point in time that Spokane
24 County Detention Services understood that it was
25 obligated for purposes of potential litigation to

1 preserve all written and electronically stored
2 information pertaining to her confinement in the jail?

3 MR. JUSTICE: Object to the form.

4 You can answer.

5 A Okay. I don't know the date or the time approximately,
6 but I -- on any of these circumstances we collect all of
7 the evidence, including video and anything else that we
8 can collect.

9 Q (By Mr. Budge) And so as of the date of Cindy Lou Hill's
10 death, as of that very evening, is it accurate to say
11 that Spokane County Detention Services knew and operated
12 pursuant to the understanding that it was obligated to
13 preserve all video and other electronically stored
14 information?

15 A Again, I wasn't in the building at the time, but I
16 would -- there -- I would assume that the sergeants and
17 the lieutenants on scene would have collected all of that
18 up.

19 Q Right.

20 A Yeah.

21 Q My question is slightly different. I just want to
22 establish for purposes of the record that Spokane County
23 Detention Services knew as a general matter promptly
24 following Ms. Hill's death that it was obligated to
25 preserve all video and electronically stored information

1 surrounding her confinement; correct?

2 A Yes.

3 MR. JUSTICE: Object to the form.

4 A Yes.

5 MR. JUSTICE: Go ahead.

6 Q (By Mr. Budge) Now, as of August 25th, 2018, the usual
7 and ongoing understanding and custom was that Spokane
8 County Detention Services would preserve for purposes of
9 civil litigation all written and electronically stored
10 information, including videos, pertaining to the
11 confinement of a deceased inmate; is that right?

12 MR. JUSTICE: Objection. Asked and
13 answered.

14 You can answer.

15 A Yeah. That's correct. We --

16 Q (By Mr. Budge) Okay. I'm going to show you now
17 Exhibit 3 to your deposition, and this, as you'll see, is
18 a document titled "Cindy Lou Hill Death Review."

19 And I'll just go ahead and give you the opportunity
20 to scroll through that, if you would, and just tell me if
21 you recognize that.

22 A I recognize that as the document that Dr. Hammond
23 prepared.

24 Q Okay. So this was the written death review conducted by
25 Dr. Hammond at the request of Spokane County Detention

1 know what the policies say, and the policy says that you
2 will go up to their windows; you will peer in the
3 windows. You'll make sure that you have signs of life,
4 sight and sound, like I just said, or try to engage them
5 in conversation, unless you see something out of the
6 ordinary, and then -- in which case they would do more.

7 Q Was there any type of training program or training that
8 was specifically given to the officers at the Spokane
9 County Jail as of August of 2018 on exactly what they
10 were supposed to do when their duties included medical
11 watch of inmates?

12 A Yes. We have an FTO program, which is a program that
13 they're trained by a seasoned officer to go through, and
14 they also receive training from the Washington State
15 Criminal Justice Training Center. At the time it was a
16 four-week academy. Now it's -- or a six-week academy.
17 Now it's ten weeks, I guess.

18 Q Have you reviewed the deposition transcripts of any of
19 the officers who were charged with monitoring Cindy Lou
20 Hill on the date of her death?

21 A I have not.

22 Q If you look at Exhibit No. 6, which is the medical watch
23 form for Cindy Lou Hill, do you see that in the lower
24 part of the form that there are handwritten entries at
25 10:15, 11:09, 11:23, 12:07, 12:40, and then continuing

1 13:10, 13:43, 13:58, 14:30, 15:00, and 15:20?

2 A I do.

3 Q Can you think of any way to verify that these checks
4 actually occurred?

5 A I do.

6 Q And what way would that be?

7 A As I stated earlier, the sergeants review them. Now they
8 review them, but also through video -- they would be able
9 to monitor them through video.

10 Q Okay. So we could review the video from the hallway
11 located outside cell 2 West 27; right?

12 A If the camera angle is -- yeah -- is appropriate, yes.

13 Q And the video surveillance from that camera angle looking
14 down the hall would tell us whether the checks occurred
15 at the documented times, who was at the cell door, and
16 how long the corrections officer paused at the cell door,
17 if they in fact went?

18 A Correct.

19 Q Would it have been appropriate for Spokane County
20 Detention Services to destroy or fail to preserve or
21 allow to be destroyed the video from the hallway outside
22 cell 2 West 27 for the period of time from 9:15 a.m. to
23 4 p.m., a time period that would have encompassed all of
24 the supposed checks following the death of Ms. Hill?

25 MR. JUSTICE: Object to the form.

1 You can answer.

2 **A Well, number one, do you have the videotape from that**
3 **period of time?**

4 Q (By Mr. Budge) Answer my question, sir. Would it have
5 been appropriate for Spokane County Detention Services to
6 destroy or fail to preserve that portion of the video?

7 MR. JUSTICE: Object to the form.

8 You can answer.

9 **A It would not have been appropriate. However, our system**
10 **has a purging system, an automatic purging system, and**
11 **I'm not sure if this took place when that was in place.**

12 Q (By Mr. Budge) But if the Spokane County Detention
13 Services had 60 days following the death of Ms. Hill to
14 preserve all video relating to her confinement, will you
15 agree with me that it would not have been appropriate for
16 Spokane County Detention Services to allow all of the
17 video from the afternoon of her date of -- date of her
18 death that could have been used to verify the nature and
19 the existence of these checks to be destroyed? Would you
20 agree?

21 **A I agree, within the 60 days.**

22 Q Are you aware, as you sit here today, whether or not the
23 video from the hallway outside cell 2 West 27 from 9:15
24 all the way through 4:00 in the afternoon was preserved
25 or alternatively allowed to be destroyed?

1 **A I'm not sure.**

2 **Q Can you think of any good reason why Spokane County**
3 **Detention Services would have allowed that portion of**
4 **video from 9:15 a.m. to 4:00 in the afternoon to be**
5 **destroyed and failed to preserve it, assuming that it had**
6 **60 days to do the necessary preservation?**

7 **MR. JUSTICE: Object to the form.**

8 You can answer.

9 **A I see no reason for it to be destroyed.**

10 **Q (By Mr. Budge) Are you aware of any written policies**
11 **from Spokane County Detention Services on the subject of**
12 **what corrections officers were supposed to do when they**
13 **were charged with the duty of medical watch?**

14 **MR. JUSTICE: Objection. Asked and**
15 **answered.**

16 You can answer.

17 **A I haven't reviewed the policy on that portion for a**
18 **while, so I would want to, you know, review it, but off**
19 **the top of my head, I think it's covered in doing their**
20 **rounds, yes, not specifically for medical watches.**

21 **Q (By Mr. Budge) Right.**

22 **A Okay. For watches.**

23 **Q Okay. My question is, for medical watch are you aware of**
24 **any specific written policy from Spokane County Detention**
25 **Services that's designed to explain to the guards who**

1 STATE OF WASHINGTON) I, Valerie L. Torgerson, CCR, RPR,
2) ss a certified court reporter
3 County of Pierce) in the State of Washington, do
4 hereby certify:

5 That the foregoing deposition of MICHAEL SPARBER was
6 taken before me and completed on August 16, 2021, and
7 thereafter was transcribed under my direction; that the
8 deposition is a full, true and complete transcript of the
9 testimony of said witness, including all questions, answers,
10 objections, motions and exceptions;

11 That the witness, before examination, was by me duly
12 sworn to testify the truth, the whole truth, and nothing but
13 the truth, and that the witness reserved the right of
14 signature;

15 That I am not a relative, employee, attorney or counsel
16 of any party to this action or relative or employee of any
17 such attorney or counsel and that I am not financially
18 interested in the said action or the outcome thereof;

19 That I am herewith securely sealing the said deposition
20 and promptly delivering the same to Edwin S. Budge.

21 IN WITNESS WHEREOF, I have hereunto set my signature on
22 the 23rd day of August 2021.

23
24
25


Valerie L. Torgerson, CCR, RPR
Certified Court Reporter No. 2036
(Certification expires 09/3/21.)